

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariel Courage	Team: Squad #6	CCRB Case #: 201508265	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/26/2015 12:30 PM	Location of Incident: § 87(2)(b)	Precinct: 106	18 Mo. SOL 3/26/2017	EO SOL 3/26/2017	
Date/Time CV Reported Sun, 09/27/2015 10:35 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/02/2015 11:27 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Jessica Romance	03441	941641	113 DET
2. DT3 James Zozzaro	1741	942747	113 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ivan Villanueva	05997	947581	113 PCT
2. POM Thomas Skobla	21699	945316	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Jessica Romance	Abuse: At Liberty Avenue and the Van Wyck Expressway in Queens, Det. Jessica Romance detained § 87(2)(b)	§ 87(2)(b)
B.DT3 James Zozzaro	Abuse: At Liberty Avenue and the Van Wyck Expressway in Queens, Det. James Zozzaro detained § 87(2)(b)	§ 87(2)(b)
C.DT3 James Zozzaro	Abuse: At Liberty Avenue and the Van Wyck Expressway in Queens, Det. James Zozzaro threatened to arrest § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
D.DT3 Jessica Romance	Abuse: Det. Jessica Romance entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
E.DT3 James Zozzaro	Abuse: Det. James Zozzaro entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
F.DT3 Jessica Romance	Discourtesy: At an unknown location in Queens, and inside the 113th Precinct stationhouse, Det. Jessica Romance spoke discourteously to § 87(2)(b)	§ 87(2)(b)
G.DT3 James Zozzaro	Discourtesy: At an unknown location in Queens, and inside the 113th Precinct stationhouse, Det. James Zozzaro spoke discourteously to § 87(2)(b)	§ 87(2)(b)
H.DT3 Jessica Romance	Abuse: En route to and inside of the 113th Precinct stationhouse, Det. Jessica Romance did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
I.DT3 James Zozzaro	Abuse: En route to and inside of the 113th Precinct stationhouse, Det. James Zozzaro did not obtain medical treatment for § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

This case exceeded the 90 day benchmark due to several missed scheduled appointments by one of the subject officers.

On September 30, 2015, § 87(2)(b) contacted the IAB Command Center via phone to file this complaint (BR 01). It was received at the CCRB on October 2, 2015.

On September 26, 2015, § 87(2)(b) was on the Q9 bus near the intersection of Liberty Avenue and the Van Wyck Expressway when the bus abruptly stopped and two officers, identified by the investigation as Det. Jessica Romance and Det. James Zozzaro of the 113th Precinct Detective Squad, boarded. Det. Romance and Det. Zozzaro called for § 87(2)(b) and allegedly ordered her off of the bus (**Allegations A and B**).

Once § 87(2)(b) stepped off of the bus, she began to cry. Det. Zozzaro told § 87(2)(b) to stop crying or he would “get her arrested” (**Allegation C**), or force her to go to the hospital and tell hospital staff that she was crazy (**subsumed under Allegation C**). § 87(2)(b) entered the officers’ unmarked RMP and they drove to her home, located at § 87(2)(b) in Queens.

Upon arrival, § 87(2)(b) Det. Romance, Det. Zozzaro, and § 87(2)(b) s neighbor, § 87(2)(b) entered § 87(2)(b) s home (**Allegations D and E**). § 87(2)(b) continued to cry during this time and Det. Zozzaro again threatened to arrest her (**within Allegation C**).

Det. Romance and Det. Zozzaro informed § 87(2)(b) about a deed to another residence they were investigating, 117-81 142nd Street in Queens. The detectives then proceeded to search bags within § 87(2)(b) s residence for said deed (**subsumed under Allegations D and E**). § 87(2)(b) called her real estate agent, who subsequently spoke on the phone with Det. Romance and told her that he would be able to fax the deed to her, at which time Det. Romance and Det. Zozzaro left. § 87(2)(b) was not arrested or issued summonses.

§ 87(2)(b) then called § 87(2)(b) who resides at § 87(2)(b) to warn her that officers had the deed and that she needed to leave the residence. § 87(2)(b) went to § 87(2)(b) s residence. After speaking with her in regards to the incident, § 87(2)(b) left the residence in her vehicle and was pulled over at an unknown location by Det. Romance and Det. Zozzaro for failing to signal. At this unknown location, both Det. Romance and Det. Zozzaro called § 87(2)(b) a “fucking liar, fucked up individual, and a fucked up bitch” (**Allegation F and G**).

§ 87(2)(b) was arrested for not having a license. Both en route to and inside of the 113th Precinct stationhouse, § 87(2)(b) requested medical attention, since she is diabetic and did not have her insulin, requests that Det. Zozzaro and Det. Romance both allegedly refused (**Allegation H and I**). Inside of the 113th Precinct stationhouse, both Det. Zozzaro and Det. Romance told § 87(2)(b) that if she wanted to go to the “fucking hospital,” she would have to have her legs chained up (**subsumed under Allegations F and G**).

§ 87(2)(b) was later released from the stationhouse with summonses (BR 02).

Neither Det. Romance nor Det. Zozzaro prepared memo book entries with respect to these incidents (**Allegations J and K**).

On January 14, 2016, this case was reassigned from Inv. Murdy to the undersigned.

Mediation, Civil and Criminal Histories

- This case is not mediation suitable as § 87(2)(b) stated she planned on filing a lawsuit.

- § 87(2)(b) has filed a civil suit with respect to this incident seeking \$1,000,000 for false arrest, false imprisonment, intentional infliction of emotional distress, and trespass (BR 03).
- § 87(2)(c), § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first complaint filed by § 87(2)(b) (BR 05) and § 87(2)(b) (BR 06).
- Det. Zozzaro has been a member of service for 9 years and has 34 allegations filed against him with one allegation being recommended as substantiated.
 - In case number 201105413 Det. Zozzaro received charges for an allegation of physical force. The NYPD recommended no disciplinary action.
- Det. Romance has been a member of service for 9 years and has no previous substantiated allegations.

Potential Issues

- On October 6, 2015 and October 7, 2015, two calls were placed to § 87(2)(b) to obtain a statement. On October 7, 2015, § 87(2)(b) provided a brief telephone statement and scheduled to an interview for October 14, 2015. Prior to her interview, § 87(2)(b) contacted the CCRB and left a message stating that she would not be able to make her scheduled interview. Between October 14, 2015 and November 9, 2015, three more phone calls and two letters were sent to § 87(2)(b). To date, § 87(2)(b) has not responded to provide a sworn testimony.

Findings and Recommendations

Allegations Not Pleaded

- **Vehicle stop:** With respect to the allegations pleaded on behalf of § 87(2)(b) the stop of the bus upon which § 87(2)(b) was an occupant has been assessed as an allegation of a detainment and therefore no separate allegation of a vehicle stop has been pleaded.

With respect to the allegations pleaded on behalf of § 87(2)(b) insofar as the stop of § 87(2)(b)'s vehicle was predicated upon an observation of a traffic violation, for which § 87(2)(b) received a summons, to plead a vehicle stop would constitute a summons dispute. As such, no corresponding allegation has been pleaded.

Allegation A – Abuse of Authority: At Liberty Avenue and the Van Wyck Expressway in Queens, Det. Jessica Romance detained § 87(2)(b)

Allegation B – Abuse of Authority: At Liberty Avenue and the Van Wyck Expressway in Queens, Det. James Zozzaro detained § 87(2)(b)

It is undisputed that Det. Romance and Det. Zozzaro boarded the Q9 bus that § 87(2)(b) rode in an attempt to speak with her.

§ 87(2)(b) (BR 07 and 08) alleged that the bus was in motion near the intersection of Liberty Avenue and the Van Wyck Expressway when it abruptly stopped and an officer, identified by the investigation as Det. Zozzaro, boarded. Det. Zozzaro appeared to scan over each occupant of the bus. When his eyes landed upon § 87(2)(b) he approached her and said,

“Let’s go.” § 87(2)(b) stood up and asked, “Why me? Where are you taking me?” Det. Zozzaro did not answer her questions, but instead repeated, “Let’s go.” § 87(2)(b) began to cry and continued to ask why the officers wanted to speak with her. At that juncture a second officer, identified by the investigation as Det. Romance, also boarded the bus. Det. Romance confirmed to Det. Zozzaro that § 87(2)(b) was the one that they were looking for. Det. Zozzaro asked § 87(2)(b) § 87(2)(b) § 87(2)(b) confirmed that was her name and address. Det. Zozzaro and Det. Romance both told § 87(2)(b) “Let’s go.” After approximately 10 minutes, § 87(2)(b) stepped off of the bus with the two officers and stood on the sidewalk (in filing this complaint with IAB (BR 07), § 87(2)(b) provided a slightly different account, in which Det. Zozzaro asked her if she knew § 87(2)(b) and, when § 87(2)(b) replied yes, he told § 87(2)(b) to exit the bus and come with them, which she did).

Once on the sidewalk, § 87(2)(b) continued to cry and ask what she had done. Det. Zozzaro and Det. Romance did not respond to her questions. Det. Zozzaro threatened to take her to the hospital and tell them that she was crazy, and to arrest her, if she did not stop crying. Det. Zozzaro also told § 87(2)(b) that he was going to take her back to her house and search her house. Neither Det. Zozzaro nor Det. Romance responded when § 87(2)(b) asked why. § 87(2)(b) then entered the officers’ vehicle and went with them to her house.

Det. Zozzaro (BR 09) said that he and Det. Romance had, over the course of multiple months, been investigating a criminal complaint of extortion and grand larceny made against a woman named § 87(2)(b). A few days prior to September 26, 2015, Det. Zozzaro contacted an unidentified woman who had recently been involved in a landlord-tenant dispute with § 87(2)(b) § 87(2)(b). The unidentified woman told Det. Zozzaro that she thought § 87(2)(b) § 87(2)(b) was in the care of her daughter, § 87(2)(b) and that she may have fled to Georgia, and that she may have been attempting to leave the country. The unidentified woman also told Det. Zozzaro that § 87(2)(b) § 87(2)(b) did not own the house in which she lived and paid the mortgage for in Queens, located at § 87(2)(b) § 87(2)(b) in Queens. The unidentified woman told Det. Zozzaro that the house actually belonged to § 87(2)(b) § 87(2)(b).

Det. Zozzaro and Det. Romance went to § 87(2)(b) § 87(2)(b)s home at § 87(2)(b) § 87(2)(b) and spoke to her neighbor, identified by the investigation as § 87(2)(b) § 87(2)(b) who told them that § 87(2)(b) § 87(2)(b) had just boarded “that bus line,” pointing to a nearby bus sign. Det. Zozzaro and Det. Romance followed the bus route until they caught up with the bus at Liberty Avenue and Van Wyck Expressway. Det. Romance and Det. Zozzaro boarded the bus, identified themselves to the bus driver, and asked if they could have a few minutes. Det. Zozzaro then asked if there was anyone on board named § 87(2)(b) § 87(2)(b) immediately raised her hand. Det. Zozzaro asked her to step off of the bus. § 87(2)(b) § 87(2)(b) did so without further incident. Once § 87(2)(b) § 87(2)(b) stepped off of the bus, she became “hysterical,” crying and screaming, “I knew this would happen. I don’t have anything to do with this. This is all § 87(2)(b) § 87(2)(b) Oh, Lord Jesus!” Det. Zozzaro tried to calm § 87(2)(b) § 87(2)(b) explaining that he and Det. Romance just needed to bring her back to her house and ask her some questions. § 87(2)(b) § 87(2)(b) assented to this proposal, saying, “Okay, okay. I might have paperwork at the house. I have to show you. She is getting one over on me, too.” On the drive to § 87(2)(b) § 87(2)(b)s home, Det. Romance conveyed to § 87(2)(b) § 87(2)(b) that she was not in any trouble, that she could aid them in their investigation, and that they in turn might be able to help her regain what § 87(2)(b) § 87(2)(b) took from her.

Det. Romance (BR 10) closely corroborated Det. Zozzaro's account, with the following exceptions and additions: Det. Romance clarified that they wanted to interview § 87(2)(b) about § 87(2)(b) § 87(2)(b) and to obtain the deed to the house at § 87(2)(b) § 87(2)(b) in Queens, as if they were able to verify that § 87(2)(b) was its true owner, they could begin to take legal proceedings against § 87(2)(b) § 87(2)(b) to restore the house to § 87(2)(b) from its state of foreclosure and also to possibly aid in their search of § 87(2)(b) § 87(2)(b). Det. Romance clarified that the bus was already stopped when she and Det. Zozzaro approached it, with its doors open to release passengers. Det. Romance confirmed Det. Zozzaro's statement that § 87(2)(b) identified herself to Det. Romance and Det. Zozzaro, and that she stepped voluntarily off of the bus at their request. Det. Romance initially said that § 87(2)(b) became hysterical on the bus, immediately after identifying herself to the officers, but later in her interview said § 87(2)(b) only became upset after she stepped off of the bus.

Det. Romance said that once § 87(2)(b) stepped off of the bus, they attempted to explain to her that she was not suspected of a crime, and that they were there only to help her and to obtain information from her. § 87(2)(b) insisted that she was not a criminal. Det. Romance asked if § 87(2)(b) would like to speak with them at the stationhouse or at her residence. § 87(2)(b) told the officers she would be more comfortable speaking to them at her residence. Det. Romance and Det. Zozzaro requested that § 87(2)(b) enter their vehicle so that they could drive her to her home and § 87(2)(b) complied.

A consensual encounter does not trigger Fourth Amendment scrutiny. Terry v. Ohio, 92 U.S. (1868) (BR 11) Not all police encounters that occur upon buses constitute seizures. The criterion for determining whether or not an encounter on a bus constitutes a seizure is whether, based upon a totality of the circumstances, a reasonable passenger would feel free to decline the officers' requests or otherwise terminate the encounter. Even when officers have no basis for suspecting criminality, they may ask questions of an individual, provided they do not convey a message that compliance with their requests is required. Florida v. Bostick, 501 U.S. 429 (1991) (BR 12)

In § 87(2)(b)'s account, officers did not answer her questions or clarify their intentions before she stepped off of the bus. As described by § 87(2)(b) although she eventually complied by exiting the bus, she was initially reluctant, and only did so after Det. Zozzaro and Det. Romance had been on the bus for about 10 minutes. Additionally, as discussed in greater detail below, according to § 87(2)(b) Det. Zozzaro threatened her with arrest or with hospitalization, and announced his intent to return to § 87(2)(b)'s home and search it, without providing any explanation for why he wished to do so. § 87(2)(g)

However, according to Det. Zozzaro and Det. Romance, § 87(2)(b) exited the bus almost immediately after identifying herself to them, without questioning them, and became upset only once she stood on the sidewalk. Further, both Det. Zozzaro and Det. Romance claimed to have made repeated efforts to explain to § 87(2)(b) that she was not suspected of a crime, and that they only wanted to help her, after which time § 87(2)(b) provided consent for officers to come to her home. § 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: At Liberty Avenue and the Van Wyck Expressway in Queens, Det. James Zozzaro threatened to arrest § 87(2)(b)

§ 87(2)(b) (BR 07 and 08) said that she was crying hysterically once she exited the bus. § 87(2)(b) alleged that Det. Zozzaro told her that if she did not stop crying, he would take her to a hospital and tell them she was crazy. When § 87(2)(b) continued to weep, Det. Zozzaro then told her that he was going to get her arrested.

Both Det. Zozzaro (BR 09) and Det. Romance (BR 10) confirmed that § 87(2)(b) cried hysterically. Both denied that they ever threatened to arrest § 87(2)(b) or to force her to go to the hospital. Both characterized their conversation with her as an attempt to explain why they approached her and to calm her down. At no point did either of them consider § 87(2)(b) to be stopped, or under arrest, or to have committed any crime for which she could have been arrested.

§ 87(2)(g)

Allegation D – Abuse of Authority: Det. Jessica Romance entered and searched § 87(2)(b) in Queens.

Allegation E – Abuse of Authority: Det. James Zozzaro entered and searched § 87(2)(b) in Queens.

It is undisputed that Det. Romance and Det. Zozzaro entered § 87(2)(b) in Queens. The circumstances surrounding the entry are disputed.

§ 87(2)(b) (BR 07 and 08) alleged that once she stepped off of the bus, Det. Zozzaro told her that he was going to take her to her house and search it. § 87(2)(b) who was still crying, asked, “Why? What do you want from me?” Det. Zozzaro told § 87(2)(b) “Be quiet. Be calm. Let’s go to your house.” Det. Romance, Det. Zozzaro, and § 87(2)(b) entered the police vehicle, which they drove to § 87(2)(b)’s house. The officers seemed to know where § 87(2)(b) lived. On their way to § 87(2)(b)’s home, § 87(2)(b) called her husband and informed him what was happening. One of the officers – § 87(2)(b) did not indicate which – took her cell phone and spoke to her husband. When the officer returned § 87(2)(b)’s cell phone, she spoke to her husband, who told her that she should calm down and follow the officer’s instructions.

When § 87(2)(b) arrived home, her neighbor, § 87(2)(b) came outside to ask what was going on. Det. Zozzaro and Det. Romance told § 87(2)(b) that they wanted to question § 87(2)(b) about something. § 87(2)(b) asked § 87(2)(b) to accompany her into her house. § 87(2)(b) Det. Zozzaro, and Det. Romance all entered the house (in her IAB intake statement (BR 07), § 87(2)(b) provided a slightly different narrative, stating that when she arrived at her house she grew frightened and tried to run in her house, but that Det. Zozzaro and Det. Romance followed her).

Once inside the house, Det. Zozzaro told § 87(2)(b) that they were looking for the deed to another house that § 87(2)(b) owns and rents out, § 87(2)(b) in Queens. This house is in foreclosure proceedings. Det. Zozzaro also asked § 87(2)(b) if she had seen § 87(2)(b) also known as § 87(2)(b) § 87(2)(b) told Det. Zozzaro that she had not seen her since January of 2015, when she came to § 87(2)(b)’s home at § 87(2)(b) and spoke with her husband; § 87(2)(b)’s husband had told § 87(2)(b)

§ 87(2)(b) that § 87(2)(b) was not paying her mortgage. § 87(2)(b) relayed this information to the officers.

Det. Zozzaro told § 87(2)(b) that it was time for them to search for the deed. § 87(2)(b) Det. Zozzaro, and Det. Romance all entered the dining room and began searching various bags for the deed. When they could not find the deed, § 87(2)(b) Det. Zozzaro, and Det. Romance proceeded to a bedroom upstairs, where they aided § 87(2)(b) in searching for the deed.

After failing to locate the deed, § 87(2)(b) offered to call her real estate agent to obtain a copy of it. § 87(2)(b) called her real estate agent on her cell phone and Det. Romance arranged to pick up the deed with the real estate agent. Det. Zozzaro and Det. Romance left. § 87(2)(b) did not know why they wanted a copy of the deed.

§ 87(2)(b) (BR 13) said she was in her home when she saw § 87(2)(b) walking with Det. Romance and Det. Zozzaro towards the front gate of her yard. § 87(2)(b) called for § 87(2)(b) came outside. When she came outside, she heard § 87(2)(b) say that she did nothing wrong, ask the officers why they took her off the bus, and said she thought that the officers were going to lock her up.

§ 87(2)(b) Det. Romance, and Det. Zozzaro all walked upstairs together to the second floor apartment. § 87(2)(b) called for § 87(2)(b) to come upstairs with her. § 87(2)(b) did so. § 87(2)(b) did not hear whether or not § 87(2)(b) explicitly gave the officers permission to enter her house.

Inside § 87(2)(b)'s apartment, § 87(2)(b) Det. Romance, Det. Zozzaro, and § 87(2)(b) all sat down. The officers explained that they were looking for the deed to § 87(2)(b)'s other house, and said that § 87(2)(b) was not in trouble. § 87(2)(b) was emotional, was screaming, and did not listen to the officers. The officers further explained that they were looking for people who lived in the other house that § 87(2)(b) owned, and asked her if she wanted them to help get her house back. § 87(2)(b) said she did want the officers' help, and told them that she kept her papers in bags she stored in her bedroom and dining room. § 87(2)(b) gave § 87(2)(b) Det. Romance, and Det. Zozzaro permission to help her look for her paperwork, and all of them looked through bags that § 87(2)(b) stored atop her dining room table, as well as her bedroom, including underneath her bed.

Det. Romance (BR 10) said that once § 87(2)(b) stepped off of the bus, the officers told her that they wanted to speak to her, and assured her that she was not suspected of committing any crime, but that they were both trying to help her and obtain information from her. Det. Romance and Det. Zozzaro asked § 87(2)(b) if she would be more comfortable speaking to them at the stationhouse or at her home. § 87(2)(b) assented to speaking to the officers at her home, stating that she preferred to do so because her husband would likely be there. § 87(2)(b) entered their vehicle and they returned to her house. Upon arrival at her house, § 87(2)(b) invited the detectives inside by saying at her front gate, "You guys can come in the house...with me...I have the paperwork." Det. Romance and Det. Zozzaro followed § 87(2)(b) into her home, as did § 87(2)(b) At no subsequent point did § 87(2)(b) ever protest their entry.

Once inside the house, Det. Romance and Det. Zozzaro obtained a glass of water for § 87(2)(b) began to calm down. Det. Romance and Det. Zozzaro spoke with § 87(2)(b) about § 87(2)(b) § 87(2)(b) relayed to Det. Romance and Det. Zozzaro that she and § 87(2)(b) § 87(2)(b) had been friends, but that § 87(2)(b) § 87(2)(b) was

failing to pay the mortgage on the house § 87(2)(b) owned despite their agreement that she would do so, and consequently there were foreclosure proceedings upon the house. Det. Romance and Det. Zozzaro told § 87(2)(b) that she was also a victim of § 87(2)(b) and that they may be able to aid her in getting her house back if § 87(2)(b) could verify that she was the owner of that house.

§ 87(2)(b) began to search through the dining room and bedroom of her home for the deed. Det. Romance and Det. Zozzaro followed § 87(2)(b) during this search. Det. Romance and Det. Zozzaro did not aid § 87(2)(b) in her search, nor did § 87(2)(b) request their assistance. After about 10 minutes, § 87(2)(b) was able to produce a mortgage statement in her name but could not find the deed itself. Det. Romance and Det. Zozzaro later obtained a copy of the deed from the real estate agent from whom § 87(2)(b) had purchased the home.

Det. Zozzaro (BR 09) generally corroborated Det. Romance's account, with the following exceptions: he said that when they suggested returning to § 87(2)(b)'s home, she said, "Okay, okay. I might have paperwork at the house. I have to show you. She is getting one over on me too." When Det. Zozzaro and Det. Romance reached § 87(2)(b)'s home, she invited them inside, reiterating that she had to show them some paperwork. After obtaining a glass of water for § 87(2)(b) and discussing § 87(2)(b), § 87(2)(b) began to search her own bedroom. § 87(2)(b) provided various paperwork to the officers, most of which was of no use, but eventually she obtained a letter from Chase Bank stating that her mortgage was past due and that foreclosure proceedings would be taken against the home. § 87(2)(b) went to the kitchen and Det. Zozzaro followed her, briefly leaving Det. Romance with § 87(2)(b) in the bedroom. § 87(2)(b) also allowed Det. Zozzaro to use her bathroom. When § 87(2)(b) could not locate her deed, she called her real estate agent.

A warrantless search or seizure without probable cause is improper unless the authorities have obtained the voluntary consent of a person authorized to grant such consent. People v. Colon-Gentile U.S. Dist. LEXIS 71222 (2014) (BR 14) The voluntariness of consent is determined based upon a totality of all circumstances. There are numerous factors that may be used in assessing the totality of the circumstances, including but not limited to, the following: whether or not the individual granting consent was in custody or handcuffed, was informed of their right to refuse consent, had previously refused consent, the length of any detention they were subjected to, whether there was any show of force by the officers, etc. *Ibid.* The government has no affirmative obligation to advise an individual of their right to deny consent to a search. United States v. Drayton, 536 U.S. 194 (2002) (BR 15)

When the government seeks to justify a search on the basis of consent, the government must demonstrate that the consent was in fact voluntarily given, and not the result of duress or coercion, whether explicit or implicit. Bumper v. North Carolina, 391 U.S. 543, 548 (1968) (BR 16)

An individual's consent to enter their residence may be established by conduct as well as words. An individual engaging an officer near the entry to their residence, then entering the residence without verbally or physically attempting to impede an officer's immediate, subsequent entry into the residence constitutes implied consent to the officer's entry. People v. Smith, 239 A.D.2d 219; 658 N.Y.S.2d 259 (1997) (BR 17)

§ 87(2)(g)

§ 87(2)(b) did not allege that she was coerced into providing consent; rather she alleged that Det. Romance and Det. Zozzaro never made any attempt whatsoever to gain her consent and that she at no point provided it to them.

§ 87(2)(b) did not hear whether or not § 87(2)(b) provided verbal consent for officers to enter her apartment. Even if § 87(2)(b) did provide consent for officers to enter, § 87(2)(b) may not have been in a position to hear her do so, as Det. Romance and Det. Zozzaro both said permission to enter was granted at § 87(2)(b)'s front gate well before § 87(2)(b) approached. § 87(2)(b) also said that once inside § 87(2)(b)'s apartment, § 87(2)(b) provided verbal permission for § 87(2)(b) § 87(2)(g)

Although it is disputed whether or not officers actually aided § 87(2)(b) in searching her apartment – § 87(2)(b) and § 87(2)(b) both said that the officers did, while Det. Romance and Det. Zozzaro both said they only stood nearby and observed § 87(2)(b) and § 87(2)(b) as they conducted the search – this dispute is irrelevant, as § 87(2)(b)'s testimony indicates that Det. Romance and Det. Zozzaro would have had § 87(2)(b)'s permission to engage in the search if they chose.

§ 87(2)(g)

§ 87(2)(g)

It is undisputed that § 87(2)(b) was visibly distraught throughout this encounter, crying loudly from the time officers initially approached her on the bus until she returned to her house and began looking for her documents. There are conflicting accounts of what transpired between § 87(2)(b) Det. Romance, and Det. Zozzaro once § 87(2)(b) stepped off of the bus. As discussed above, in § 87(2)(b)'s account, Det. Zozzaro and Det. Romance never explained why they wanted to speak to her or communicated to her that she was not a suspect of a crime and was free to leave, and, as discussed above, Det. Zozzaro threatened to either take her to a hospital and tell them that she was crazy or arrest her, and also announced his intention to return to § 87(2)(b)'s house and search it, without giving any indication to § 87(2)(b) that she had a say in the matter.

Det. Zozzaro and Det. Romance, by contrast, characterized the conversation as being much less intimidating in tone; both confirmed that § 87(2)(b) was vocally upset and crying, but denied that § 87(2)(b) was in any way threatened, and both said they attempted to convey to § 87(2)(b) that she was not a suspect in a crime and that they were only trying to help her and glean information from her. Both said that § 87(2)(b) fully consented to each and every action that they took. In the accounts provided by both the officers and by the civilians, Det. Romance's and Det. Zozzaro's conduct inside § 87(2)(b)'s house, and the manner in which the search for the deed was performed, was consistent with the officer's stated objective, i.e., locating § 87(2)(b)'s deed. § 87(2)(g)

§ 87(2)(g)

Service	Percentage
Online banking	95%
Mobile banking	92%
ATM services	90%
Branch services	88%
Phone banking	85%
In-person services	75%

§ 87(2)(g)

Precinct stationhouse, Det. Jessica Romance spoke discourteously to § 87(2)(b)

Precinct stationhouse, Det. James Zozzaro spoke discourteously to § 87(2)(b)

stationhouse, Det. Jessica Romance refused to obtain medical attention for § 87(2)(b)

Det. James Zozzaro refused to obtain medical attention for § 87(2)(b)

that § 87(2)(b) did not witness these allegations, § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Squad:

Investigator:	_____	_____	_____
	Signature	Print	Date

Pod Leader:	_____	_____	_____
	Title/Signature	Print	Date

Attorney:	_____	_____	_____
	Title/Signature	Print	Date